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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,778	08/17/2006	Jean Lafay	06076	5038
23338 7590 07/14/2011 DENNISON, SCHULTZ & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314				
EXAMINER HAYLIN, ROBERT H				
ART UNIT		PAPER NUMBER		
1626				
MAIL DATE		DELIVERY MODE		
07/14/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,778

Applicant(s)

LAFAY ET AL.

Examiner

ROBERT HAVLIN

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2011.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40,41,43,44 and 46-59 is/are pending in the application.
4a) Of the above claim(s) 59 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 40,41,43,44,46 and 52-55 is/are rejected.
7) ☒ Claim(s) 47-51 and 56-58 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement must request that the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Status of the claims: Claims 40, 41, 43, 44, 46-59 currently pending.

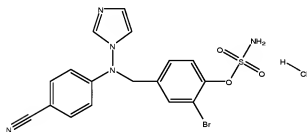
Priority: This application is a 371 of PCT/EP04/14847 (12/15/2004) and claims foreign priority to EUROPEAN PATENT OFFICE (EPO) 03 293 152.9 (12/15/2003) and EUROPEAN PATENT OFFICE (EPO) 04 292 681.6 (11/12/2004).

Election/Restrictions

1. Applicant previously elected Group I (claims 1-31 where Z is



Application also elected the following species (example 45):



, which reads on the instant claims when:

R1, R2, R4 = H,

R3 = CN,

R8/9 = -Br / -S(O₂)-NH₂

p=1

Q = CH₂.

As detailed in the following rejections, the generic claim encompassing the elected species was not found patentable. Therefore, the provisional election of species is given effect, the examination is restricted to the elected species only, and claims not reading on the elected species are held withdrawn.

Should applicant, in response to this rejection of the Markush-type claim, overcome the rejection through amendment, the amended Markush-type claim will be reexamined to the extent necessary to determine patentability of the Markush-type claim. See MPEP 803.02.

Applicant states in the response of 5/19/2011 that claim 59 was neither allowed or rejected, however, this claim was withdrawn with the above language (reproduced as in the prior office action) due to the fact that it does not read on the elected species. Accordingly, claim 59 remains withdrawn.

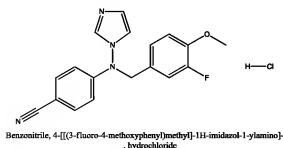
RESPONSE TO APPLICANT REMARKS

Claim Rejections - 35 USC § 102

2. Claims 40, 41, 43, 44, 46, 52-55 were rejected under 35 U.S.C. 102(e) as being anticipated by US 6737433.

Applicant has amended the claims, however, the prior art continues to read on the claims as amended.

The '433 patent teaches the following compound as example 9:



Which anticipated the instant claims of formula (I) when:

R1, R2, R4 = H,

R3 = CN,

R8= H,

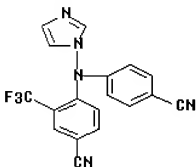
R9 = -F / -OMe

p=2

Q = (CH₂)_n, n=1

Applicant amended the claims to include a proviso to exclude where R9 is methoxy.

However, the prior art also teaches species such as:



Which anticipates the claims when:

R1, R2, R4 = H,

R3 = CN,

R8= H,

R9 = -CN / -CF₃

p=2

Q = direct link

This rejection is **modified / maintained**.

Claim Objections

3. Claims 47-51 and 56-58 are objected to for being dependent on a rejected base claim.

Conclusion

The claims are not in condition for allowance. **THIS ACTION IS MADE FINAL.**
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HAVLIN whose telephone number is (571)272-9066. The examiner can normally be reached on Mon. - Fri., 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful the examiner's supervisor, Joe McKane can be reached at (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Havlin/
Examiner, Art Unit 1626